

DRAFT
Subject to Legal Review for Clarity and Consistency

U.S. B Singapore Free Trade Agreement
Text of the Agreement

DRAFT
Subject to Legal Review for Clarity and Consistency

CHAPTER 3 : RULES OF ORIGIN
(As at 17 Dec 2002)

SECTION A : ORIGIN DETERMINATION

ARTICLE 3.1 : ORIGINATING GOODS

For purposes of the Agreement, an originating good means a good:

- (a) wholly obtained or produced entirely in the territory¹ of one or both of the Parties; or
- (b) that has satisfied the requirements specified in Annex I; or
- (c) otherwise provided as an originating good under this Chapter.

ARTICLE 3.2 : TREATMENT OF CERTAIN PRODUCTS

1. A Party shall consider a good listed in Annex II, when imported into its territory from the territory of the other Party, to be an originating good. A good listed in Annex II shall be considered an originating material for purposes of satisfying the requirements specified in Annex I.

2. Within six months after entry into force of the Agreement, the Parties shall meet to explore the expansion of the product coverage of Annex II. Both Parties shall consult regularly to review the operation of this Article and consider the addition of goods to Annex II², pursuant to the appropriate/relevant General Institutional provisions.

ARTICLE 3.3 : DE MINIMIS

1. A good that does not undergo a change in tariff classification pursuant to Annex I shall be considered originating if the value of all non-originating materials used in the production of the good that do not undergo the required change in tariff classification does not exceed 10 percent of the adjusted value of the good, and the good meets all other applicable criteria for qualifying as an originating good. The value of such non-originating materials shall, however, be included in the value of non-originating materials for any applicable regional value content requirement for the good.

2. Paragraph 1 does not apply to:

³⁻¹ Definition of “territory”, if necessary, will be in the General Provisions Chapter.

³⁻² Such consultations may include meetings pursuant to the appropriate/ relevant General Institutional provisions.

DRAFT
Subject to Legal Review for Clarity and Consistency

- (a) a non-originating material provided for in chapter 4 of this schedule or in subheading 1901.90 that is used in the production of a good provided for in chapter 4;
 - (b) a non-originating material provided for in chapter 4 of this schedule or in subheading 1901.90 that is used in the production of a good provided for in the following provisions: subheadings 1901.10, 1901.20 or 1901.90; heading 2105; or subheadings 2106.90, 2202.90, or 2309.90;
 - (c) a non-originating material provided for in heading 0805 or subheadings 2009.11 through 2009.30, inclusive, that is used in the production of a good provided for in subheadings 2009.11 through 2009.30, inclusive, or subheadings 2106.90 or 2202.90;
 - (d) a non-originating material provided for in chapter 15 of this schedule that is used in the production of a good provided for in headings 1501 through 1508, inclusive, 1512, 1514 or 1515;
 - (e) a non-originating material provided for in heading 1701 that is used in the production of a good provided for in headings 1701 through 1703, inclusive;
 - (f) a non-originating material provided for in chapter 17 or heading 1805 of this schedule that is used in the production of a good provided for in subheading 1806.10;
 - (g) a non-originating material provided for in headings 2203 through 2208, inclusive, that is used in the production of a good provided for in headings 2207 or 2208;
 - (h) a non-originating material used in the production of a good provided for in Chapters 1 through 21 of the Harmonized System unless the non-originating material is provided for in a different subheading than the good for which origin is being determined under this Article.
3. A good provided for in Chapter 50 through 63 of the Harmonized System that does not originate because certain fibres or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex I, shall nonetheless be considered to originate if the total weight of all such fibres or yarns in that component is not more than 7 percent of the total weight of that component. Notwithstanding the preceding sentence, a good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall originate only if such yarns are wholly formed in the territory of one of the Parties.

DRAFT
Subject to Legal Review for Clarity and Consistency

ARTICLE 3.4 : ACCUMULATION

1. Originating materials from the territory of a Party, used in the production of a good in the territory of the other Party, shall be considered to originate in the territory of the other Party.
2. A good shall originate when the good is produced in the territory of one or both Parties by one or more producers, provided that the good satisfies the requirements in Article 3.1 and all other applicable requirements of this Chapter.

ARTICLE 3.5 : REGIONAL VALUE CONTENT

Where Annex I refers to a regional value content, each Party shall provide that the regional value content of a good shall be calculated on the basis of one of the following methods:

- (a) Build-down Method

$$RVC = \frac{AV - VNM}{AV} \times 100$$

where

RVC is the regional value content, expressed as a percentage;

AV is the adjusted value, and

VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good.

- (b) Build-up Method

$$RVC = \frac{VOM}{AV} \times 100$$

where

RVC is the regional value content, expressed as a percentage;

AV is the adjusted value; and

VOM is the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

DRAFT
Subject to Legal Review for Clarity and Consistency

ARTICLE 3.6 : VALUE OF MATERIALS

1. Except in the case of indirect materials and packing materials and containers for shipments, for purposes of calculating the regional value content of a good and for purposes of applying the de minimis rule, the value of a material shall be:

- (a) for a material imported by the producer of the good, the adjusted value of the material; or
- (b) for a material acquired in the territory where the good is produced, except for materials within the meaning of subparagraph (c), the adjusted value of the material; or
- (c) for a material that is self-produced, or where the relationship between the producer of the good and the seller of the material influenced the price actually paid or payable for the material, including a material obtained without charge, the sum of:
 - (i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses; and
 - (ii) an amount for profit.

2. Further Adjustments to the Value of Materials

- (a) For originating materials, where not included under paragraph 1, the following expenses may be added to the value of the material:
 - (i) the costs of freight, insurance, packing and all other costs incurred in transporting the material to the location of the producer;
 - (ii) duties, taxes and customs brokerage fees on the material paid in the territory of one or more of the parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable; and
 - (iii) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product.
- (b) For non-originating materials, where included under paragraph 1, the following expenses may be deducted from the value of the material:
 - (i) the costs of freight, insurance, packing and all other costs incurred in transporting the material to the location of the producer;

DRAFT
Subject to Legal Review for Clarity and Consistency

- (ii) duties, taxes and customs brokerage fees on the material paid in the territory of one or more of the parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable;
- (iii) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product;
- (iv) the cost of processing incurred in the territory of a Party in the production of the non-originating material; and
- (v) the cost of originating materials used in the production of the non-originating material in the territory of a Party.

ARTICLE 3.7 : ACCESSORIES, SPARE PARTS AND TOOLS

Accessories, spare parts or tools delivered with the good that form part of the good's standard accessories, spare parts, or tools, shall be considered as originating if the good originates and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification, provided that:

- (a) the accessories, spare parts or tools are not invoiced separately from the good;
- (b) the quantities and value of the accessories, spare parts or tools are customary for the good; and
- (c) if the good is subject to a regional value content requirement, the value of the accessories, spare parts or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

ARTICLE 3.8 : FUNGIBLE GOODS AND MATERIALS

1. The determination of whether fungible goods or materials are originating shall be made either by physical segregation of each good or material or through the use of any inventory management method, such as averaging, LIFO or FIFO, recognized in the generally accepted accounting principles of the Party in which the production is performed or otherwise accepted by the Party in which the production is performed.

DRAFT
Subject to Legal Review for Clarity and Consistency

2. When an inventory management method is elected, that method shall be used for those fungible goods or materials throughout the fiscal year.

ARTICLE 3.9 : PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE

Packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good, be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex I and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

ARTICLE 3.10 : PACKING MATERIALS AND CONTAINERS FOR SHIPMENT

Packing materials and containers in which a good is packed for shipment shall be disregarded in determining whether:

- (a) the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex I; and
- (b) the good satisfies a regional value-content requirement.

ARTICLE 3.11 : INDIRECT MATERIALS

1. An indirect material shall be considered to be an originating material without regard to where it is produced and its value shall be the cost registered in the accounting records of the producer of the good.

ARTICLE 3.12 : THIRD COUNTRY TRANSPORTATION

1. A good shall not be considered to be an originating good if the good undergoes subsequent production or any other operation outside the territories of the Parties, other than unloading, reloading or any other operation necessary to preserve it in good condition or to transport the good to the territory of a Party.

SECTION B : SUPPORTING INFORMATION AND VERIFICATION

ARTICLE 3.13 : CLAIMS FOR PREFERENTIAL TARIFF TREATMENT

DRAFT
Subject to Legal Review for Clarity and Consistency

1. Each Party shall provide that an importer may make a claim for preferential treatment under this Agreement based on the importer's knowledge that the good qualifies as an originating good, or based on information in the importer's possession that the good qualifies as an originating good.
2. Each Party may require that an importer be prepared to submit, upon request, a statement setting forth the reasons that the good qualifies as an originating good, including pertinent cost and manufacturing information. The statement need not be in a prescribed format, and may be submitted electronically, where feasible.

ARTICLE 3.14 : OBLIGATIONS RELATING TO IMPORTATIONS

1. Each Party shall grant any claim for preferential treatment under this Agreement made in accordance with its provisions, unless the Party possesses information that the claim is invalid.
2. A Party may deny preferential treatment under this Agreement to an imported good if the importer fails to comply with any requirement of this Chapter.
3. Where a Party determines that a claim for preferential treatment under the Agreement is to be denied, written notice of the determination shall be issued to the importer, along with written findings of fact and the legal basis for the determination.
4. The importing Party shall not subject an importer to any penalty for making an invalid claim for preferential treatment if the importer:
 - (a) upon becoming aware that such claim is not valid, promptly and voluntarily corrects the claim and pays any duty owing; and
 - (b) in any event, completes the correction and payment within a period determined by a Party, which shall be at least one year from submission of the invalid claim.

ARTICLE 3.15 : RECORD KEEPING REQUIREMENT

Each Party may require that importers maintain for up to five years after the date of importation records relating to the importation of the good, and may require that an importer provide, upon request, records which are necessary to demonstrate that a good for which a claim was made qualifies for preferential treatment, as stipulated in Article 3.13.2 (Claims for Preferential Tariff Treatment), including records concerning:

- (a) the purchase of, cost of, value of, and payment for, the good;

DRAFT

Subject to Legal Review for Clarity and Consistency

- (b) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good; and
- (c) the production of the good in the form in which the good is exported.

ARTICLE 3.16 : VERIFICATION

1. For purposes of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, a Party may conduct a verification by means of:

- (a) requests for information from the importer;
- (b) written requests for information to an exporter or a producer in the territory of the other Party;
- (c) requests for the importer to arrange for the producer or exporter to provide information directly to the Party conducting the verification;
- (d) information received directly by the Importing Party from an exporter/producer in accordance with Article 3.13.2 (Claims for Preferential Tariff Treatment);
- (e) visits to the premises of an exporter or a producer in the territory of the other Party, in accordance with any procedures that the Parties jointly adopt pertaining to the verification; or
- (f) such other procedures as the Parties may agree.

SECTION C : CONSULTATION AND MODIFICATIONS

ARTICLE 3.17 : CONSULTATION AND MODIFICATIONS

1. The Parties shall consult and co-operate to ensure that this Chapter is applied in an effective and uniform manner, in accordance with the spirit and the objectives of this Agreement.

2. The Parties shall consult regularly to discuss necessary amendments to this Chapter and its Annexes, taking into account developments in technology, production processes and other related matters, pursuant to the appropriate/relevant General Institutional provisions.³

³⁻⁴ To be discussed in the General Provisions Chapter.

Subject to Legal Review for Clarity and Consistency

3. Within six months after entry into force of the Agreement, the Parties shall meet:
- (a) to consider the possible modifications to Annex I, including an assessment of the operation and use of the RVC, as a requirement the addition of products subject to the regional value-content requirement; and
 - (b) to review and consider possible modifications to Annex III.

SECTION D: DEFINITIONS

For the purposes of this Chapter:

1. **Adjusted value** means the value determined under Articles 1 through 8, Article 15, and the corresponding interpretative notes of the World Trade Organization Agreement on the Implementation of Article VII of the General Agreement on Tariff and Trade 1994 (WTO Agreement on Customs Valuation), for purposes of the regional value content formula and the application of de minimis as adjusted, to exclude the following costs, charges, and expenses from the customs value of the goods under consideration when not already excluded by a Party's national legislation: any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.
2. **Fungible goods or materials** means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical.
3. **Generally accepted accounting principles** means the recognized consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities, the disclosure of information and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures.
4. **Indirect material** means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:
 - (a) fuel and energy;
 - (b) tools, dies and molds;
 - (c) spare parts and materials used in the maintenance of equipment and buildings;

DRAFT

Subject to Legal Review for Clarity and Consistency

- (d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
 - (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
 - (f) equipment, devices, and supplies used for testing or inspecting the goods;
 - (g) catalysts and solvents; and
 - (h) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.
5. **Material** means a good that is used in the production of another good.
6. **Non-originating material** means a material that has not satisfied the requirements of this Chapter.
7. **Preferential tariff treatment** means the customs duty rate that is applicable to an originating good pursuant to Chapter 2.
8. **Producer** means a person who grows, raises, mines, harvests, fishes, traps, hunts, manufactures, processes or assembles or disassembles a good.
9. **Production** means growing, raising, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling or disassembling a good.
10. **Recovered goods** means materials in the form of individual parts that are the result from:
- (a) the complete disassembly of used goods into individual parts; and
 - (b) the cleaning, inspecting, or testing, and as necessary for improvement to sound working condition one or more of the following processes: welding, flame spraying, surface machining, knurling, plating, sleeving, and rewinding in order for such parts to be assembled with other parts, including other recovered parts in the production of a remanufactured product of Annex III;
11. **Remanufactured products** means certain industrial goods, assembled in the territory of a Party, designated under Annex III of this Chapter, that are:
- (a) entirely or partially comprised of materials that are recovered goods;
 - (b) have the same life expectancy and performance standards as new products; and

DRAFT
Subject to Legal Review for Clarity and Consistency

- (c) enjoy the same factory warranty as such new products.
12. **Used** means used or consumed in the production of goods.
13. **Wholly obtained goods** means goods that are:
- (a) a mineral good extracted from the soil, waters, seabed, or beneath the seabed;
 - (b) a vegetable good harvested or gathered there;
 - (c) a live animal born and raised there;
 - (d) a good obtained from live animals referred to in (c) above;
 - (e) a good obtained from hunting, trapping, fishing or aquaculture conducted there;
 - (f) a good of sea fishing and other marine goods taken outside its waters by vessels registered or recorded there;
 - (g) a good processed and/or made on board factory ships registered or recorded there exclusively from products referred to in paragraph (f) above;
 - (h) a good taken by a Party, or a person of a Party, from the seabed or beneath the seabed outside territorial waters, provided that the Party has rights to exploit such seabed;
 - (i) waste and scrap derived from production there;
 - (j) waste and scrap derived from used articles collected there, in whole or in part, provided such articles are fit only for the recovery of raw materials;
 - (k) recovered goods; or
 - (l) a good produced there exclusively from goods referred to in (a) through (k) above, or from their derivatives, at any stage of production.
14. **A material that is self-produced** means a good, such as a part or ingredient, produced by the producer and used by the producer in the production of another good.

SECTION E : APPLICATION AND INTERPRETATION

1. For purposes of this Chapter:

Subject to Legal Review for Clarity and Consistency

- (a) the basis for tariff classification is the Harmonized System;
- (b) any cost and value referred to in this Chapter shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the Party in which the good is produced.

Attachments

Annex I (Product-Specific Rules of Origin)

Annex II (Integrated Sourcing Initiative)

Annex III (List of Remanufactured Products)